

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LAURA MCKNIGHT, ET AL.,

Plaintiffs,

V.

**D. HOUSTON, INC. D/B/A
TREASURES, ET AL.,**

Defendants.

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Civil Action No. H-09-3345

**DEFENDANTS' SUPPLEMENTAL RESPONSE TO
PLAINTIFFS' MOTION FOR NOTICE TO CLASS MEMBERS**

TO THE HONORABLE LEE H. ROSENTHAL, UNITED STATES DISTRICT JUDGE:

Defendants D. Houston, Inc. d/b/a Treasures ("Treasures"), A.H.D. Houston, Inc. d/b/a Centerfolds ("Centerfolds"), D N.W. Houston, Inc. d/b/a Gold Cup ("Gold Cup"), D. Rankin, Inc. d/b/a Trophy Club ("Trophy Club"), D WG FM, Inc. d/b/a Splendor ("Splendor"), W.L. York, Inc. d/b/a Cover Girls ("Cover Girls"), and, in their individual capacities, Ali Davari and Hassan Davari, file their supplemental response to plaintiffs' motion for notice to class members.

The purpose of this supplemental response is to bring a recently published memorandum opinion and order to the court's attention. On July 1, 2010, Chief Judge Fitzwater of the United States District Court for the Northern Division of Texas entered a memorandum opinion and order in *Lucas v. BMS Enterprises, Inc.* wherein he held that a named plaintiff in a collective action has adequately pleaded standing against a particular defendant only if the plaintiff has alleged an injury that the defendant caused to him. See *Lucas v. BMS Enterprises, Inc.*, 2010 WL 2671305 *3, attached as Exhibit 1.

The aforementioned holding is relevant to the case at bar because the plaintiffs' testimony as cited in defendants' response to the motion for notice demonstrates that the basis for their complaint are injuries allegedly caused by defendant Treasures. Because plaintiffs' testimony does not demonstrate any alleged injury caused by the other five defendants (Centerfolds, Gold Cup, Trophy Club, Splendor, and Cover Girls), plaintiffs do not have standing against these five defendants. Plaintiffs' motion for notice as to these five defendants should therefore be denied.

WHEREFORE, defendants pray that plaintiffs' motion for notice to class members is denied and for all other relief to which they are entitled.

Respectfully submitted,

MONSAUGEN & VAN HUFF, P.C.

By: /s/ Albert T. Van Huff
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Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing document was forwarded to counsel for the parties via electronic filing on the 9th day of July, 2010.

/s/ Albert T. Van Huff
ALBERT T. VAN HUFF